



Entered on Docket  
November 16, 2007

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle  
United States Bankruptcy Judge

**LEWIS AND ROCA LLP**

3993 Howard Hughes Parkway, Suite 600  
Las Vegas, NV 89169-5996  
Facsimile (702) 949-8321  
Telephone (702) 949-8320

Susan M. Freeman AZ State Bar No. 004199  
Email: [sfreeman@lrlaw.com](mailto:sfreeman@lrlaw.com)  
Rob Charles NV State Bar No. 006593  
Email: [rcharles@lrlaw.com](mailto:rcharles@lrlaw.com)  
John Hinderaker AZ State Bar No. 018024  
Email: [jhinderaker@lrlaw.com](mailto:jhinderaker@lrlaw.com)

*Attorneys for USACM Liquidating Trust*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

Date of Hearing: October 15, 2007  
Time of Hearing: 9:30 a.m.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

**ORDER SUSTAINING THE USACM LIQUIDATING TRUST'S THIRTIETH OMNIBUS OBJECTION [DE 3189] AS IT RELATES TO CLAIM NO. 10725-00391 FILED BY JACK TIANO AS IMPROPERLY ASSERTING SECURED STATUS**

Jack Tiano filed Proof of Claim No. 10725-00391, which asserted a secured claim against USA Commercial Mortgage Company ("USACM").

The USACM Liquidating Trust (the "USACM Trust") filed its Thirtieth Omnibus Objection [DE 3189] (the "Objection"), which challenged Jack Tiano's assertion of secured status and sought to have the Court reclassify Claim No. 10725-00391 as a general unsecured claim.

Jack Tiano filed a response to the Objection [DE 3474] opposing it.

The USACM Trust filed its Motion for Summary Judgment Regarding (1) Responses to the USACM Trust's First Through Thirty-Third Omnibus Objections to Claims Asserting a Secured Status; (2) Responses to USACM Trust's First through Third Omnibus Objections to Claims Asserting a Priority Status; and (3) Newly Alleged Secured and Priority Claims (the "Motion") [DE 4291]. The Motion sought summary judgment on the Objection and asked that the Court sustain the Objection.

Appropriate notice of the Motion was given to Jack Tiano.

Jack Tiano filed a response to the Motion [DE 4472], opposing it.

At a hearing on October 15, 2007, the Court heard oral argument on the Motion from the USACM Trust's counsel. Jack Tiano did not appear at the hearing.

Based upon the foregoing and good cause appearing,

**IT IS HEREBY ORDERED:**

1. Granting the Motion [DE 4291] as it relates to Proof of Claim No(s). 10725-00391 filed by Jack Tiano;

2. Sustaining the Thirtieth Omnibus Objection [DE 3189] as it relates to Proof of Claim No 10725-00391 filed by Jack Tiano; and

3. Reclassifying Proof of Claim No. 10725-00391 filed by Jack Tiano as a general unsecured claim(s) subject to further objection by the USACM Liquidating Trust.

###

PREPARED AND SUBMITTED:

**LEWIS AND ROCA LLP**

By: /s/ RC (#0006593)

Susan M. Freeman (pro hac vice)

Rob Charles

John Hinderaker (pro hac vice)

*Attorneys for USACM Liquidating Trust*

CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of LR 9021.
- ☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below:
- ☐ approved the form of this order;
- ☐ waived the right to review the order;
- ☐ failed to file and serve papers in accordance with LR 9021(c); and/or
- ☒ failed to sign and return this proposed order within five (5) business days in accordance with LR 9021(b) (Jack Tiano).
- ☐ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection and all have either approved the form of this order, waived the right to review the order, failed to file and serve papers in accordance with LR 9021(c) and the following have disapproved the form of the order.
- ☐ No opposition was filed and no other party or counsel appeared at the hearing.

**LEWIS AND ROCA LLP**

**APPROVED/DISAPPROVED**

By: /s/ RC (#0006593)

Susan M. Freeman  
Rob Charles  
*Attorneys for USACM Liquidating Trust*

Jack Tiano  
116 W. El Portal, Suite 103  
San Clemente, CA 92672